



## Ordinance Number 531

### AN ORDINANCE TO AMEND CHAPTER 225 OF THE CODE OF THE TOWN OF ELSMERE

Sponsored By: Thomas S. Novak, Jr., 3rd District Councilman

First and Second Reading:  
April 14, 2011

Results: **Passed 6 In Favor, 0 Opposed, with 1 Absent**

Third and Final Reading:  
May 12, 2011

Results: **Passed 6 In Favor, 0 Opposed, with 1 Vacant**

# Ordinance Number 531

## AN ORDINANCE TO AMEND CHAPTER 225 OF THE CODE OF THE TOWN OF ELSMERE

**WHEREAS**, the Mayor and Council of the Town of Elsmere have been requested by the Code Enforcement Office to make changes to the requirements set forth in Chapter 225 Sections 225-9b and 225-9c of the Code of the Town of Elsmere, and;

**WHEREAS**, the Planning Commission has reviewed this ordinance and has no opposition to its adoption.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE AS FOLLOWS:

That Sections 225-9b and 225-9c of Chapter 225 be deleted in their entirety and a new Section 225-9b and 225-9c as listed below be inserted in their place.

### **§ 225-9. Site plan review by Planning Commission.**

- B. The below-listed items need not be reviewed by the Planning Commission prior to the issuance of a zoning certificate or a permit, provided that in the opinion of the Code Enforcement Officer the request meets all other requirements of the Code and that no variance or special exception would be needed **and in the opinion of the Building Official the request will not have a negative impact, on harmonious development within the Town of Elsmere.**
- (1) The replacement of any existing structure, so long as the replacement will not increase the size or change the general design of the existing structure.
  - (2) **A fence compliant with all requirements of this code and which is not located in a flood-way or flood-fringe area.**
  - (3) **An accessory structure which is compliant with all requirements of this code and which is not located in a flood-way or flood-fringe area.**
  - (4) The commercial use of a building or structure that had been being used for commercial purposes, so long as the proposed use is not substantially different than the prior usage and that the proposed use is not expected to substantially increase the amount of traffic experienced by the existing or past tenants.

- (5) **Paved areas such as sidewalks, driveways and patios compliant with all other requirements of this code and which are not located in a flood-way or flood-fringe area.**
- (6) An aboveground swimming pool.
- (7) **Decks constructed at the grade level, which do not exceed 36" in height (to the top of the highest floor boards), and which do not violate any other provisions of this code. This exception does not apply to construction proposed within a flood-way or flood-fringe area.**
- (8) **Residential additions to 1 & 2 family dwellings which comply with all provisions of this code and which are not located in a flood-way or flood-fringe area.**

C. Procedure. After application for a zoning permit for the construction of any use of or structure and after determination by the Building Official that no variance or special exception from the terms of this chapter will be required as a prerequisite to issuance of such permit, the owner, builder or his or her agent shall submit three copies of the site plan for the entire parcel to be developed, architectural drawings and specifications to include all elevations of proposed buildings, the location of all buildings proposed upon the parcel, the location and type of buffering, screening and landscaping proposed, the size, location and arrangement of all off-street parking areas, driveways and loading areas, the size, location and types of signs proposed accessory to the building or use and such other information as may be required to permit consideration of the items listed above. Such plans shall be true and accurate, drawn at an appropriate scale and certified by a registered architect or professional engineer **licensed in the State of Delaware, however this requirement may be waived at the discretion of the Building Official or the Chief Code Enforcement Officer.** The Building Official shall refer one copy of such plans to each of the Planning Commissioners for review and recommendations.

- (1) In the event that a variance or special exception to the terms of this chapter is required, including a special exception use permit, the owner, builder or his or her agent shall be required to meet the terms of this section only after the Board of Adjustment has approved the granting of the variance or special exception use. The decision of the Board of Adjustment shall modify the terms and requirements of this chapter **for** any such particular matter and the Planning Commission shall work within the context of only the specific relief or exception so granted.
- (2) The Planning Commission shall determine, in its review, that the proposed site plan and structures will compare favorably with the community standards, other neighborhood improvements and the properly intended and planned appearance throughout any street or neighborhood. In making such determination, the Planning Commission shall consider:

- (a) The height, bulk and area of buildings.
- (b) The setback distances from all property lines and spacing of buildings on the site.
- (c) The size, location and type of signs.
- (d) The size, location, construction and proposed improvement of all buffer strips, screening and areas to be landscaped.
- (e) The size, location and arrangement of all off-street parking areas and loading areas.
- (f) The relation of the proposed development to the existing buildings and structures in the general vicinity and area.
- (g) The lighting of buildings, signs and grounds.
- (h) All provisions of this chapter not mentioned specifically above and the relationship of the proposed project to the health, safety and general welfare of the public and specifically the relationship of the proposed development to the Comprehensive Plan of the Town.

April 14, 2011  
First and Second Reading

May 12, 2011  
Third and Final Reading

\_\_\_\_\_  
Deborah A. Norkavage, Mayor

\_\_\_\_\_  
Joann I. Personti, Secretary

\_\_\_\_\_  
Approved As To Form  
Edward McNally, Town Solicitor

### **SYNOPSIS:**

This Ordinance amends Chapter 225 by allowing the Building Official more discretion in approving permits and requiring an architect's seal on plans thereby decreasing the cost and time delays that residents face by being required to go before the Planning Commission or by hiring an architect.

### **Fiscal Impact:**

None